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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,887	09/11/2003	Michael J. Czaplicki	1001-067C1	5018

25215 7590 05/09/2005

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EXAMINER

KEEHAN, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/659,887

Applicant(s)

CZAPLICKI ET AL.

Examiner

Christopher M. Keehan

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-25, 27 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 16, 18, 19, 21, 23, 24, 27 and 29-34 is/are allowed.
- 6) ☒ Claim(s) 17, 20, 22, 25 and 35-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/15/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

Claims 17, 20, 22, 25 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace et al. (EP 0442178 A1). Gerace et al., as applied above, are as set forth and incorporated herein. Regarding claims 17 and 35, Gerace et al. disclose the claimed composition, in addition to the oxide (Example, page 6 of Gerace et al.) and article (as set forth above), with the exception of the amount of the filler. Gerace et al. disclose up to about 11% by weight of the adhesion promoter that can be an epoxy, which is included in the amount as claimed by applicant, and up to about 20% by weight of filler (Example 1, page 6 of Gerace et al.). Although the amount of Gerace et al. is not included in applicant's claimed range, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have added a variety of amounts of filler, including an amount of filler as claimed, due to the non-reactive nature of the filler.

Regarding claim 20, Gerace et al. disclose an amine curing agent (page 4, line 54-page 5, line 8).

Regarding claim 22, Gerace et al. disclose a mineral filler (Example 1, page 6).

Regarding claims 25 and 38, Gerace et al. do not appear to specifically disclose the property of self leveling and dryness to the touch as instantly claimed. However, as

the claimed materials are the same as that of applicant's, it appears that the composition of Koshy et al. would inherently possess the same self leveling property and dryness to the touch as claimed, absent evidence to the contrary.

Regarding claim 36, Gerace et al. disclose wherein the sealant material is configured to cure in a paint or priming processing step (page 5, lines 56-58).

Regarding claim 37, Gerace et al. do not appear to specifically disclose wherein the first panel and second panel form a ditch or channel in the automotive vehicle. Gerace et al. do disclose using the composition to bond hoods and roof panels (page 5, lines 42-43). However, a first and second panel, unless exactly overlapping, would have to form a ditch or channel because one panel would extend past the edges of the other panel.

### ***Response to Arguments***

Applicant's arguments filed 3/15/05 have been fully considered but they are not persuasive. To begin, applicant has argued the rejection of claim 17 regarding the presence of a hydrocarbon in Gerace et al. Gerace et al. clearly disclose a hydrocarbon of polyethylene (page 4, lines 28). Applicant has also argued the rejection concerning the amount of filler. On page 5, lines 31-35, Gerace et al. disclose a preferred composition, of which the minimum values of each component would yield a composition with 42 weight percent being filler. This is clearly within applicant's claimed range of filler.

***Allowable Subject Matter***

Claims 15, 16, 18, 19, 21, 23, 24, 27 and 29-34 are allowed. Applicant has submitted a terminal disclaimer, filed 3/15/05, which overcomes the rejection pertaining to claim 16 and dependent claims thereof. Applicant has amended claim 15 to contain previously indicated allowable subject matter.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Keehan whose telephone number is (571) 272-1087. The examiner can normally be reached on Monday-Friday, from 6:30 to 3:00.

Art Unit: 1712

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Keehan *CK*

May 4, 2005

DAVID J. BUTTNER  
PRIMARY EXAMINER

*David Buttner*